

Regulatory Language

Section 125, Title 14, CCR, is amended to read:

§125. Commercial Take of Rock Crab Permits.

(a) Permit Required for Take Using Trap Gear.

Effective April 1, 2005, any person using traps to take, possess aboard a vessel, use as bait, or land rock crab (*Cancer antennarius*, *C. anthonyi*, or *C. productus*) for commercial purposes shall have a valid general trap permit issued pursuant to Fish and Game Code Section 9001 and either a northern or southern rock crab trap permit as described in this Section that has not been suspended or revoked.

(1) Presence of Permit Holder Aboard a Vessel. At least one rock crab trap permit holder shall be on board at all times when taking, possessing aboard a vessel, using as bait, or landing rock crab using trap gear. If a support vessel is used, a rock crab trap permit holder shall be on each vessel when taking rock crab.

(2) Crewmembers. Any licensed commercial fisherman working on a vessel utilizing commercial rock crab trap gear shall possess a valid general trap permit that has not been suspended or revoked. Crewmembers are not required to hold a rock crab trap permit.

(3) Fishermen holding lobster operator or crewmember permits issued pursuant to Fish and Game Code Section 8254 and Section 122, Title 14, CCR, taking rock crab incidentally as authorized in Fish and Game Code Section 8250.5 during the lobster fishing season specified in Fish and Game Code Section 8251 and in lobster trap gear as defined in Fish and Game Code Section 9010, are exempt from the rock crab trap permit requirements of this Section.

(4) Revocation or suspension. A northern or southern rock crab trap permit may be revoked or suspended by the commission upon violation of the Fish and Game Code, or violation of regulations adopted by the Commission, by the holder thereof, his or her agent, employee, or person acting under his or her direction and control.

(b) Permit Conditions.

(1) Commercial rock crab trap permits are issued conditional upon all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps.

(2) Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab shall be marked with a buoy.

(3) Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," shall not be used on buoy lines attached to rock crab traps, and shall not be possessed by any commercial rock crab trap permittee on any vessel while taking or attempting to take rock crab.

(c) Permit Areas.

(1) The northern rock crab trap permit is required only in ocean waters between 42°00' N. lat. (the Oregon/California border) and 36°00' N. lat. (at Lopez Point, Monterey County).

(2) The southern rock crab trap permit is required only in ocean waters south of 36°00' N. lat. (at Lopez Point, Monterey County).

(d) Northern Rock Crab Trap Permit Issuance.

(1) A person is eligible to purchase a northern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman;

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) each year the individual must submit to the department a northern rock crab trap permit application form DFG 1375 (6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f).

(e) Southern Rock Crab Trap Permit Issuance.

(1) Initial Permit Issuance. During the 2005-2006 permit year, any person is eligible for initial issuance of a southern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman; and

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) the individual must have landed a minimum of 500 pounds of rock crab utilizing trap gear between January 1, 1998 and December 31, 2003 at ports located within the southern permit area as defined in subsection (c), and as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

Individuals who hold a Nearshore Fishery Trap Endorsement issued pursuant to Section 150.03, Title 14, CCR, are exempt from this eligibility requirement.

(D) Application Deadlines for Southern Rock Crab Trap Permit. A southern rock crab trap application form DFG 1324(6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f) must be received by the department or, if mailed, must be postmarked on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received by the department, or, if mailed, postmarked from October 1 through October 31, 2005 will be assessed a \$50 late fee. Applications and permit fees for initial issuance of southern rock crab trap permits received, or, if mailed, postmarked after October 31, 2005 shall be returned to the applicant unissued.

(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must be renewed annually.

(A) Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year.

(B) All applications and permit fees for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Applications for renewal of a southern rock crab trap permit received by the department, or if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications for renewal of a southern rock crab trap permit received or postmarked after May 31 shall be returned to the applicant unissued.

(f) Fees.

(1) Northern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).

(2) Southern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).

~~(g) Permit Revocation. Pursuant to Fish and Game Code Section 1054, a rock crab trap permit shall be revoked if the applicant or permittee submits false information for the purposes of obtaining or renewing a rock crab trap permit.~~

~~(h)~~(g) Appeals.

(1) Southern Rock Crab Trap Permit Initial Issuance Appeals. Any applicant who is denied initial issuance of a southern rock crab trap permit for any reason by the department may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked on or before March 31, 2006.

(2) Southern Rock Crab Trap Renewal Appeals. Any applicant who is denied renewal of a southern rock crab trap permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid southern rock crab trap permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

~~(i)~~(h) Restricted Access.

A control date of January 1, 2003 is established for the purpose of considering a future restricted access southern rock crab trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the southern rock crab trap fishery if one is developed.

~~(j)~~(i) Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.

NOTE:

Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7857, 8250.5, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Section 125.1, Title 14, CCR, is added to read:

§125.1 Commercial Take of Rock Crab; Size Limit; Use of Rock Crab as Bait; Incidental Take Provisions.

(a) Rock crab, as defined in Fish and Game Code section 8275(c), less than 4¼ inches, measured across the carapace in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, sold, or used as bait.

(b) Measuring requirements. Any person taking rock crab for any commercial purpose or for use as bait shall carry a measuring device and shall measure any rock crab immediately. Undersized rock crab shall be immediately returned to the water.

(c) Incidental take. Only the following species may be taken incidentally in rock crab traps being used to take rock crab under authority of a permit issued pursuant to Section 125. All other invertebrates and finfish shall be immediately released to the water.

(1) Kellet's whelk.

(2) Octopus.

(3) Crabs, other than the genus *Cancer*.

(d) Pursuant to Fish and Game Code Section 9001.7, rock crab may be used as bait in finfish traps. However, consistent with Fish and Game Code Section 5508, rock crab may not be possessed or maintained in such a condition that their size cannot be determined. Additionally, consistent with Fish and Game Code Section 5509, rock crab may not be possessed or maintained in such a condition that the species cannot be readily identified.

NOTE:

Authority cited: Section 8282, Fish and Game Code. Reference: Sections 8250.5, 8281, 8284, 9001.7 and 9011, Fish and Game Code.